

**ASSEMBLY BILL**

**No. 2460**

**Introduced by Assembly Member Bill Campbell**

February 21, 2002

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An act to amend Section 11105 of the Penal Code, relating to criminal history information.

LEGISLATIVE COUNSEL'S DIGEST

AB 2460, as introduced, Bill Campbell. Criminal history information.

Existing law requires the Department of Justice to maintain state summary criminal history information, and requires the department to furnish the information to specified persons, while authorizing the department to furnish this information to other specified parties.

This bill would make a nonsubstantive change to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 11105 of the Penal Code is amended to  
2 read:  
3 11105. (a) (1) The Department of Justice shall maintain state  
4 summary criminal history information.  
5 (2) As used in this section:  
6 (A) "State summary criminal history information" means the  
7 master record of information compiled by the Attorney General  
8 pertaining to the identification and criminal history of any person,  
9 such as name, date of birth, physical description, fingerprints,

1 photographs, date of arrests, arresting agencies and booking  
2 numbers, charges, dispositions, and similar data about the person.

3 (B) “State summary criminal history information” does not  
4 refer to records and data compiled by criminal justice agencies  
5 other than the Attorney General, nor does it refer to records of  
6 complaints to or investigations conducted by, or records of  
7 intelligence information or security procedures of, the office of the  
8 Attorney General and the Department of Justice.

9 (b) The Attorney General shall furnish state summary criminal  
10 history information to any of the following, if needed in the course  
11 of their duties, provided that when information is furnished to  
12 assist an agency, officer, or official of state or local government,  
13 a public utility, or any entity, in fulfilling employment,  
14 certification, or licensing duties, Chapter 1321 of the Statutes of  
15 1974 and of Section 432.7 of the Labor Code shall apply:

16 (1) The courts of the state.

17 (2) Peace officers of the state as defined in Section 830.1,  
18 subdivisions (a) and (e) of Section 830.2, subdivision (a) of  
19 Section 830.3, subdivisions (a) and (b) of Section 830.5, and  
20 subdivision (a) of Section 830.31.

21 (3) District attorneys of the state.

22 (4) Prosecuting city attorneys of any city within the state.

23 (5) Probation officers of the state.

24 (6) Parole officers of the state.

25 (7) A public defender or attorney of record when representing  
26 a person in proceedings upon a petition for a certificate of  
27 rehabilitation and pardon pursuant to Section 4852.08.

28 (8) A public defender or attorney of record when representing  
29 a person in a criminal case and if authorized access by statutory or  
30 decisional law.

31 (9) Any agency, officer, or official of the state if the criminal  
32 history information is required to implement a statute or regulation  
33 that expressly refers to specific criminal conduct applicable to the  
34 subject person of the state summary criminal history information,  
35 and contains requirements or exclusions, or both, expressly based  
36 upon that specified criminal conduct.

37 (10) Any city or county, or city and county, or district, or any  
38 officer, or official thereof if access is needed in order to assist that  
39 agency, officer, or official in fulfilling employment, certification,  
40 or licensing duties, and if the access is specifically authorized by

1 the city council, board of supervisors, or governing board of the  
2 city, county, or district if the criminal history information is  
3 required to implement a statute, ordinance, or regulation that  
4 expressly refers to specific criminal conduct applicable to the  
5 subject person of the state summary criminal history information,  
6 and contains requirements or exclusions, or both, expressly based  
7 upon that specified criminal conduct.

8 (11) The subject of the state summary criminal history  
9 information under procedures established under Article 5  
10 (commencing with Section 11120) of Chapter 1 of Title 1 of Part  
11 4.

12 (12) Any person or entity when access is expressly authorized  
13 by statute if the criminal history information is required to  
14 implement a statute or regulation that expressly refers to specific  
15 criminal conduct applicable to the subject person of the state  
16 summary criminal history information, and contains requirements  
17 or exclusions, or both, expressly based upon that specified  
18 criminal conduct.

19 (13) Health officers of a city, county, or city and county, or  
20 district, when in the performance of their official duties enforcing  
21 Section 120175 of the Health and Safety Code.

22 (14) Any managing or supervising correctional officer of a  
23 county jail or other county correctional facility.

24 (15) Any humane society, or society for the prevention of  
25 cruelty to animals, for the specific purpose of complying with  
26 Section 14502 of the Corporations Code for the appointment of  
27 level 1 humane officers.

28 (16) Local child support agencies established by Section 17304  
29 of the Family Code. When a local child support agency closes a  
30 support enforcement case containing summary criminal history  
31 information, the agency shall delete or purge from the file and  
32 destroy any documents or information concerning or arising from  
33 offenses for or of which the parent has been arrested, charged, or  
34 convicted, other than for offenses related to the parent's having  
35 failed to provide support for minor children, consistent with the  
36 requirements of Section 17531 of the Family Code.

37 (17) County child welfare agency personnel who have been  
38 delegated the authority of county probation officers to access state  
39 summary criminal history information pursuant to Section 272 of  
40 the Welfare and Institutions Code for the purposes specified in

1 Section 16504.5 of the Welfare and Institutions Code. Information  
2 from criminal history records provided pursuant to this  
3 subdivision shall not be used for any purposes other than those  
4 specified in this section and Section 16504.5 of the Welfare and  
5 Institutions Code. When an agency obtains records obtained both  
6 on the basis of name checks and fingerprint checks, final  
7 placement decisions shall be based only on the records obtained  
8 pursuant to the fingerprint check.

9 (c) The Attorney General may furnish state summary criminal  
10 history information upon a showing of a compelling need to any  
11 of the following, provided that when information is furnished to  
12 assist an agency, officer, or official of state or local government,  
13 a public utility, or any entity, in fulfilling employment,  
14 certification, or licensing duties, Chapter 1321 of the Statutes of  
15 1974 and of Section 432.7 of the Labor Code shall apply:

16 (1) Any public utility as defined in Section 216 of the Public  
17 Utilities Code that operates a nuclear energy facility when access  
18 is needed in order to assist in employing persons to work at the  
19 facility, provided that, if the Attorney General supplies the data,  
20 he or she shall furnish a copy of the data to the person to whom the  
21 data relates.

22 (2) ~~To a~~ A peace officer of the state other than those included  
23 in subdivision (b).

24 (3) ~~To a~~ A peace officer of another country.

25 (4) ~~To public~~ *Public* officers (other than peace officers) of the  
26 United States, other states, or possessions or territories of the  
27 United States, provided that access to records similar to state  
28 summary criminal history information is expressly authorized by  
29 a statute of the United States, other states, or possessions or  
30 territories of the United States if the information is needed for the  
31 performance of their official duties.

32 (5) ~~To any~~ Any person when disclosure is requested by a  
33 probation, parole, or peace officer with the consent of the subject  
34 of the state summary criminal history information and for  
35 purposes of furthering the rehabilitation of the subject.

36 (6) The courts of the United States, other states, or territories  
37 or possessions of the United States.

38 (7) Peace officers of the United States, other states, or  
39 territories or possessions of the United States.

1     (8) ~~To any~~ Any individual who is the subject of the record  
2 requested if needed in conjunction with an application to enter the  
3 United States or any foreign nation.

4     (9) Any public utility as defined in Section 216 of the Public  
5 Utilities Code, if access is needed in order to assist in employing  
6 current or prospective employees who in the course of their  
7 employment may be seeking entrance to private residences. The  
8 information provided shall be limited to the record of convictions  
9 and any arrest for which the person is released on bail or on his or  
10 her own recognizance pending trial.

11     If the Attorney General supplies the data pursuant to this  
12 paragraph, the Attorney General shall furnish a copy of the data to  
13 the current or prospective employee to whom the data relates.

14     Any information obtained from the state summary criminal  
15 history is confidential and the receiving public utility shall not  
16 disclose its contents, other than for the purpose for which it was  
17 acquired. The state summary criminal history information in the  
18 possession of the public utility and all copies made from it shall be  
19 destroyed not more than 30 days after employment or promotion  
20 or transfer is denied or granted, except for those cases where a  
21 current or prospective employee is out on bail or on his or her own  
22 recognizance pending trial, in which case the state summary  
23 criminal history information and all copies shall be destroyed not  
24 more than 30 days after the case is resolved.

25     A violation of this paragraph is a misdemeanor, and shall give  
26 the current or prospective employee who is injured by the violation  
27 a cause of action against the public utility to recover damages  
28 proximately caused by the violations. Any public utility's request  
29 for state summary criminal history information for purposes of  
30 employing current or prospective employees who may be seeking  
31 entrance to private residences in the course of their employment  
32 shall be deemed a "compelling need" as required to be shown in  
33 this subdivision.

34     Nothing in this section shall be construed as imposing any duty  
35 upon public utilities to request state summary criminal history  
36 information on any current or prospective employees.

37     (10) ~~To any~~ Any campus of the California State University or  
38 the University of California, or any four-year college or university  
39 accredited by a regional accreditation organization approved by  
40 the United States Department of Education, if needed in

1 conjunction with an application for admission by a convicted felon  
2 to any special education program for convicted felons, including,  
3 but not limited to, university alternatives and halfway houses.  
4 Only conviction information shall be furnished. The college or  
5 university may require the convicted felon to be fingerprinted, and  
6 any inquiry to the department under this section shall include the  
7 convicted felon's fingerprints and any other information specified  
8 by the department.

9 (d) Whenever an authorized request for state summary criminal  
10 history information pertains to a person whose fingerprints are on  
11 file with the Department of Justice and the department has no  
12 criminal history of that person, and the information is to be used  
13 for employment, licensing, or certification purposes, the  
14 fingerprint card accompanying the request for information, if any,  
15 may be stamped "no criminal record" and returned to the person  
16 or entity making the request.

17 (e) Whenever state summary criminal history information is  
18 furnished as the result of an application and is to be used for  
19 employment, licensing, or certification purposes, the Department  
20 of Justice may charge the person or entity making the request a fee  
21 that it determines to be sufficient to reimburse the department for  
22 the cost of furnishing the information. In addition, the Department  
23 of Justice may add a surcharge to the fee to fund maintenance and  
24 improvements to the systems from which the information is  
25 obtained. Notwithstanding any other law, any person or entity  
26 required to pay a fee to the department for information received  
27 under this section may charge the applicant a fee sufficient to  
28 reimburse the person or entity for this expense. All moneys  
29 received by the department pursuant to this section, Sections  
30 11105.3 and 12054 of the Penal Code, and Section 13588 of the  
31 Education Code shall be deposited in a special account in the  
32 General Fund to be available for expenditure by the department to  
33 offset costs incurred pursuant to those sections and for  
34 maintenance and improvements to the systems from which the  
35 information is obtained upon appropriation by the Legislature.

36 (f) Whenever there is a conflict, the processing of criminal  
37 fingerprints and fingerprints of applicants for security guard or  
38 alarm agent registrations or firearms qualification permits  
39 submitted pursuant to Section 7514 of the Business and



1 Professions Code shall take priority over the processing of  
2 applicant fingerprints.

3 (g) It is not a violation of this section to disseminate statistical  
4 or research information obtained from a record, provided that the  
5 identity of the subject of the record is not disclosed.

6 (h) It is not a violation of this section to include information  
7 obtained from a record in (1) a transcript or record of a judicial or  
8 administrative proceeding or (2) any other public record if the  
9 inclusion of the information in the public record is authorized by  
10 a court, statute, or decisional law.

11 (i) Notwithstanding any other law, the Department of Justice or  
12 any state or local law enforcement agency may require the  
13 submission of fingerprints for the purpose of conducting summary  
14 criminal history information checks that are authorized by law.

15 (j) The state summary criminal history information shall  
16 include any finding of mental incompetence pursuant to Chapter  
17 6 (commencing with Section 1367) of Title 10 of Part 2 arising out  
18 of a complaint charging a felony offense specified in Section 290.

